

Appendix: A



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/385,073 02/07/95 STARK

E GK-BIO-292C

ROSENBERG, JEFFREY

25M1/0516

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ART UNIT PAPER NUMBER

2505

32

DATE MAILED: 05/16/96

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

RECEIVED
JAN 14 1997
GROUP 2500

☐ This application has been examined ☒ Responsive to communication filed on 11-13-95 12-8-95 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☒ Notice of References Cited by Examiner, PTO-892.
- ☐ Notice of Draftsman's Patent Drawing Review, PTO-948.
- ☐ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of Informal Patent Application, PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐

Part II SUMMARY OF ACTION

- ☒ Claims 1, 6, 7, 11-15, 17-19, 22-26, 33-43, 45-55 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
- ☒ Claims 2-5, 8-10, 16, 20-21, 27-32 have been cancelled.
- ☒ Claims 11-15, 17-19, 22-26, 35, 43-53 are allowed.
- ☒ Claims 1, 6, 7, 33, 34, 36-42, 54, 55 are rejected.
- ☐ Claims _____ are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.
- ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
- ☐ Formal drawings are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
- ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
- ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

DOCKET

DUE Aug 16, 1996 Reply due
Nov 16, 1996 Deadline

EXAMINER'S ACTION

11. The argument in the remarks, page 7, that Borsboom is somehow "antithetical" to the claimed invention is not persuasive; Borsboom does teach a light path through the material in the manner of the prior art of instant specification, page 3, lines 17-24. As it is otherwise known to use two different length paths through the material, it would have been obvious to use two concentric rings of the sort taught by the prior art of the instant specification and by Borsboom to make such a known measurement having two different length light paths.

12. Neither Howarth nor Hirao et al were cited for, and have not been applied as showing, either the extended in length areas or the concentric surface areas; this feature is shown by the prior art discussed in the specification and by Borsboom. The rejections are not based upon any allegation or belief that Howarth or Hirao show the extended in length areas or the concentric arrangement.

13. Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS

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OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

14. Papers related to this application may be submitted to Group 2500 by facsimile transmission. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (15 November 1989). The fax number is (703) 308-7722.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. A. Rosenberger whose telephone number is (703) 308-4804.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

R. A. Rosenberger
13 May 1996

JIN F. NG
DEPUTY DIRECTOR
GROUP 2500